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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20443

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of:

Grandfathered Short-Spaced  
FM Stations

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MM Docket No. 96-120  
RM-7651

**REPLY COMMENTS OF KELSHO RADIO GROUP, INC.**

Kelsho Radio Group, Inc. ("Kelsho")<sup>1</sup>, the indirect owner of two grandfathered short-spaced FM stations in the Los Angeles market -- KACD-FM, Santa Monica and KBCD-FM, Newport Beach -- files these Reply Comments in further support of the Commission's proposal to eliminate the protection of second- and third-adjacent channel FM stations from the grandfathered short-spacing rules.<sup>2</sup> In the *Notice*, the Commission found that removing this protection would result in a "small risk of interference . . . localized in the immediate area of the transmitter."<sup>3</sup> The record supports this conclusion.

Eleven-Fifty Corp. ("Eleven-Fifty"), the licensee of Station KIIS-FM, Los Angeles, filed comments in this proceeding opposing the Commission's proposal, contending that eliminating the second- and third-adjacent channel protections would adversely impact the operations of KIIS.<sup>4</sup> As an example of the "additional interference" that the rule change would

<sup>1</sup> Kelsho Radio Group is the general partner of Kelsho Communications, L.P., the limited partner of KACD-FM, L.P. and KBCD-FM, L.P., respectively the licensees of KACD-FM and KBCD-FM.

<sup>2</sup> See *Grandfathered Short-Spaced FM Stations*, FCC 96-236, released June 14, 1994 (Notice of Proposed Rulemaking) (the "*Notice*") at ¶¶ 17-26.

<sup>3</sup> *Id.* at ¶ 24.

<sup>4</sup> See Comments of Eleven-Fifty Corp., filed July 23, 1996. The Commission's current separation rule for short-spaced grandfathered stations includes protection zones for second- and third-adjacent channels. See 47 C.F.R. § 73.213.

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allegedly cause to KIIS, Eleven-Fifty cites the proposed modifications to KACD, which have been pending before the FCC for nearly five years.<sup>5</sup> This claim is simply disingenuous.

KACD and KBCD each operate on 103.1 MHz (Channel 276A), as short-spaced low-power radio stations serving approximately 47% of the Los Angeles radio market.<sup>6</sup> KIIS is a second-adjacent channel from KACD operating at 102.7 MHz and serving the entire market. When Kelsho purchased KACD and KBCD in 1991, they operated as two independent grandfathered stations. Kelsho immediately began to operate them as a single station, increasing the total service area by simulcasting the programming. In order to compete in Los Angeles, however, both KACD and KBCD need to be upgraded. Five years ago, Kelsho filed an application to increase the stations' facilities, but it has been blocked by the grandfathered short-spacing rules, which "protect" KIIS and other second-adjacent channels from any modifications that would increase the service area of a short-spaced station within its 1 mv/m contour.<sup>7</sup>

In its comments, Eleven-Fifty objects to the elimination of the second- and third-adjacent channel rules because it would result in "additional interference" to KIIS by allowing the proposed modifications to KACD. Eleven-Fifty's statement is true only in the most technical sense: eliminating the rule would cause interference to *only 50 more listeners* in KIIS's coverage area.<sup>8</sup> This additional interference amounts to 0.0004% of the total listenership of KIIS, which totals 12,520,466 within the 1 mv/m contour.

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<sup>5</sup> FCC File No. BPH-911010IG. KACD is 37.4 km from KIIS-FM. The FCC's current rules require a separation of 69 km, and Section 73.213(a) of the Rules therefore prevents any modification of KACD.

<sup>6</sup> KACD and KBCD are located just 59 km apart, about half the 115 km required for co-channel separation under normal circumstances.

<sup>7</sup> Eleven-Fifty filed an informal objection against the proposed modification of KACD.

<sup>8</sup> See Technical Statement of duTriel, Lundin & Rackley at 2, attached hereto as Exhibit A.

The protection of such a small audience at the cost of preventing beneficial modifications to short-spaced stations is hardly a basis for principled decision-making. While the current rules "protect" KIIS's 50 listeners, they prevent KACD from improving its facilities to increase its listenership by more than 34,000 persons.<sup>9</sup> In conjunction with the pending modifications to KBCD, upgrading the facilities of KACD/KBCD would result in an increase in coverage population for the stations of more than 280,000 persons.<sup>10</sup> The current grandfathered short-spacing rules, which Eleven-Fifty selfishly seeks to perpetuate, simply prevent KACD/KBCD from competing with the full-powered stations in Los Angeles, such as KIIS.

The minimal effect the proposed KACD/KBCD modifications would have upon the operations of KIIS is not an anomaly, but rather is indicative of the insignificant impact facilities improvements to short-spaced grandfathered FM stations will have upon second- and third-adjacent channel operations. The record resoundingly supports the Commission's tentative conclusion that "creating these small areas of potential interference to some receivers is more than outweighed by enhancing the ability of existing stations to modify and improve service in response to changing conditions."<sup>11</sup>

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<sup>9</sup> See Application for Minor Modification of KACD, filed October 10, 1991, FCC File No. BPH-911010IG.

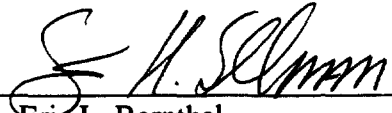
<sup>10</sup> See Application for Minor Modification of KBCD, filed October 10, 1991, FCC File No. BPH-911010IH.

<sup>11</sup> Notice at ¶ 24.

Kelsho urges the Commission to adopt its proposal to eliminate the protection for second- and third-adjacent channels. As discussed in its Comments, Kelsho also requests that the Commission retain its policy allowing short-spaced FM stations to reach agreements for mutual modifications of their facilities, without which Kelsho will be unable to modify KACD/KBCD and improve its service to the public.

Respectfully submitted,

KELSHO COMMUNICATIONS, L.P.

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August 5, 1996

CERTIFICATE OF SERVICE

I, Steven H. Schulman, hereby certify that I have this 5th day of August, 1996, caused copies of the foregoing Reply Comments of Kelsho Radio Group, Inc. to be served, via United States mail, postage prepaid, to the following:

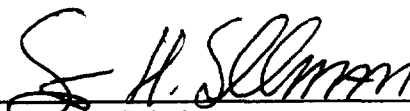
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**EXHIBIT A**

**TO**

**REPLY COMMENTS OF KELSHO RADIO GROUP, INC.**

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JAN 22 1997

*du Treil, Lundin & Rackley, Inc.*

A Subsidiary of A.D. Ring, P.A.

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

TECHNICAL STATEMENT  
SUPPORTING THE REPLY COMMENTS OF  
KELSHO COMMUNICATIONS, LP

This Technical Statement supports the reply comments of Kelsho Communications, LP (Kelsho) submitted in response to the Federal Communications Commission (FCC) Notice of Proposed Rule Making (NPRM) in MM Docket No. 96-120. The NPRM concerns proposed modifications to the FCC's rules with regard to grandfathered short-spaced FM stations (Section 73.213 of the FCC rules).

Kelsho submitted comments in the proceeding (Technical Exhibit dated July 19, 1996), showing the insignificant amount of interference which would be caused by its pending application. Eleven Fifty Corporation, the licensee of Station KIIS-FM, submitted comments stating that it would receive "additional interference" from the proposed KACD operation. In fact, the predicted interference to KIIS-FM would be insignificant.

Attached as Figure 1 is a map submitted with Kelsho's previous comments. The map is a portion of a large scale 1/24,000 (7.5 minute) USGS topographic quadrangle. It shows the predicted KIIS-FM 79.5 dBu (9.44 mV/m) contour, the KIIS-FM field strength provided at the KACD site. The map also shows the 119.5 dBu (944 mV/m) contours for the present and proposed KACD operations based on free space propagation.

The population (1990 US Census) within the present and proposed KACD 119.5 dBu contours has been

estimated. The population is based on a uniform distribution of population within a block group. This is a conservative assumption, however, as the station appears to be located in a less populated area. The estimated population within the KIIS-FM 1 mV/m (60 dBu) service and 0.5 mV/m (54 dBu) protected contours is also provided.

<u>Contour</u>	<u>Population</u>
Present KACD 119.5 dBu	1,285
Proposed KACD 119.5 dBu	1,335
KIIS-FM 60 dBu	12,520,466
KIIS-FM 54 dBu	13,424,722
Present KACD 119.5 dBu as:	
percentage of KIIS-FM 60 dBu	0.0103%
percentage of KIIS-FM 54 dBu	0.0096%
Proposed KACD 119.5 dBu as:	
percentage of KIIS-FM 60 dBu	0.0107%
percentage of KIIS-FM 54 dBu	0.0099%

The estimated increase in population within the predicted KACD interference to KIIS-FM is only 50 people. This increase represents 0.0004% of the entire population within the KIIS-FM predicted 1 mV/m (60 dBu) service



contour. In my professional opinion the predicted KACD interference caused to KIIS-FM is therefore insignificant.



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July 30, 1996

